

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
JUNE 17, 2003  
7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Kelly, Masica and Mayor Maetzold. Member Hovland entered the meeting at 7:08 P.M.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Kelly and seconded by Member Masica approving the Council Consent Agenda as presented with the exception of Agenda Item VI.A., Confirmation of Payment of Claims.

Rollcall:

Ayes: Kelly, Masica, Maetzold

Motion carried.

**EDINA HEALTH EDUCATORS REACHING OUT (HEROES) GROUP INTRODUCED** Kathy Iverson, Chemical Health Coordinator and Molly McDonough, Bloomington Public Health introduced the Sixth Grade Heroes Group from Southview Middle School. The group visited Edina restaurants, congratulated them for being smoke free and presented them with a plaque. Ms. Iverson told the Council the group would be presenting their 'tobacco prevention' program at Park and Recreation Playground activities in the near future.

**\*MINUTES OF THE REGULAR MEETING OF JUNE 3, 2003, APPROVED** Motion made by Member Kelly and seconded by Member Masica, approving the Minutes of the Regular Meeting of the Edina City Council for June 3, 2003.

Motion carried on rollcall vote - three ayes.

**RESOLUTION NO. 2003-41 - APPROVING VACATION OF PUBLIC RIGHT-OF-WAY (5411 AND 5409 ABBOTT PLACE)** Affidavits of Notice were presented, approved and ordered placed on file.

**Presentation by Engineer**

Engineer Houle stated the City had received an application requesting the vacation of the pathway easement between 5411 and 5409 Abbott Place. Mr. Houle reported that Reliant, Qwest and Time Warner had no objections to the proposed vacation. However, Xcel Energy wanted to retain a portion of the easement for utility purposes. He added the City of Edina utilities needed to retain the easement for utility purposes. Mr. Houle explained that both sanitary and storm sewers exist in the right-of-way. Mr. Houle reported the staff's recommendation to allow the vacation of the pathway right-of-way.

Member Masica asked who owned the property underlying the pathway right-of-way. Mr. Houle explained that the property owners of the adjacent property typically owned the underlying property if the property were between two lots, or the property would belong to the owner of the property over which the easement ran. He explained this was not determined by the City, but was a function of the County. Attorney Gilligan confirmed that typically in a situation where two properties abut right-of-way, each receives half of the right-of-way, but that determination would be made at the County and it was the responsibility of the homeowner to request the attachment be reflected on their property. Mr. Gilligan explained the City transmits a "Notice of Completion" to the County delineating the vacation and any conditions.

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Member Hovland made a motion, seconded by Member Masica closing the public hearing.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Hovland introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2003-41  
VACATING RIGHT-OF-WAY  
BETWEEN 5409 AND 5411 ABBOTT PLACE**

WHEREAS, a motion of the City Council, on the 16<sup>th</sup> day of May, 2003, fixed a date for a public hearing on a proposed vacation of right-of-way easements; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on June 17, 2003, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, the Council deems it to be in the best interest of the City and of the public that said vacation be made; and

WHEREAS, the Council considered the extent the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota, that the following described public right-of-way easements are hereby vacated effective as of June 17, 2003:

All that part of the existing platted pathway lying adjacent to and northerly of the north line of Lot 7 and easterly of the easterly right-of-way of Abbott Place and westerly of Minnehaha Creek all in Block 2, White Investment Company's Hidden Valley, Hennepin County, MN

BE IT FURTHER RESOLVED that the existing drainage and utility easements on the aforementioned property shall remain in full effect and are not vacated at this time.

BE IT FURTHER RESOLVED, that the City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

Passed and adopted this 17<sup>th</sup> day of June, 2003

Member Masica seconded the motion.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**FIRST READING GRANTED FOR ORDINANCE NO. 2003-8 - ADDING NEW SECTION 640 - LICENSING FIREWORKS SALES AND AMENDING SECTION 185.01 - SCHEDULE A BY ADDING A FEE FOR SALE OF FIREWORKS IN CITY**

Manager Hughes explained that staff had prepared an amendment to the City Code allowing the City to require entities desiring to sell fireworks within the City to first obtain a license and enacting a fee for said license. He said staff felt the amendment should be adopted to bring Edina's code into compliance with recent legislative changes allowing the sale of certain types of fireworks and setting the maximum fees for licenses cities may impose.

The Council discussed the proposed ordinance and suggested Section 610.01 be modified slightly, clarifying that "No person shall store "for sale" ....fireworks".

Member Masica made a motion granting first reading to Ordinance No. 2003-8 Adding New Section 640 Licensing Fireworks Sales and Amending Section 185.01 – Schedule A by adding a fee for the Sale of Fireworks in the City of Edina. Member Kelly seconded the motion.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**ORDINANCE NO. 2003-9 CONTINUED TO JULY 1, 2003 – ADDING NEW SECTION 1225 – ESTABLISHING A TRANSPORTATION COMMISSION** Mr. Hughes stated the Council had discussed the concept of establishing a Transportation Commission for the City at the Vision 20/20 Retreat held in May. He said the proposed ordinance was a first draft of an ordinance establishing such a Commission. During the Council's review and discussion of the draft ordinance they suggested adding a student member to the make-up of the Commission; perhaps providing for a geographic distribution of the members and clarifying paragraph A of Subsection 1225.02 delineating the purpose and duties of the Commission. **Member Kelly made a motion to continue the consideration of the First Reading of Ordinance No. 2003-9 establishing a Transportation Commission until the regular Council meeting of July 1, 2003.** Member Hovland seconded the motion.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*BID AWARDED FOR SIDEWALK CONSTRUCTION AND MILL AND OVERLAY – CONTRACT NO. 03-1 (ENGINEERING) IMPROVEMENT NOS. A-200, A-201, S-085, S-086, S-089, S-090** Motion made by Member Kelly and seconded by Member Masica for award of bid for sidewalk construction and mill and overlay, Contract No. 03-1 (Engineering), Improvement Nos. A-200, A-201, S-085, S-086, S-089 and S-090 to recommended low bidder, Bituminous Roadways, Inc., at \$287,855.50.

Motion carried on rollcall vote – three ayes.

**AWARD OF BID FOR MAPLE ROAD TO WHITE OAKS AREA STREET RECONSTRUCTION – CONTRACT NO. 03-5 (ENGINEERING) IMPROVEMENT NOS. A-194, WM-418, STS-288, SS-406** Mr. Houle explained the project was for roadway improvements on Maple Road from West 50<sup>th</sup> Street to West 48<sup>th</sup> Street, Townes Road from West 49<sup>th</sup> Street to West 48<sup>th</sup> Street, West 49<sup>th</sup> Street and West 48<sup>th</sup> Street from Maple Road to France Avenue, Meadow Road, White Oaks Road, and West 47<sup>th</sup> Street from Meadow Road to France Avenue. He stated the project includes curb and gutter upgrades, pavement replacement and utility upgrades and a public hearing had been held on April 15, 2003, for the project. Mr. Houle said the project would be financed by special assessments and utility funds. He reported a recent neighborhood survey regarding installation of decorative streetlights indicated Maple Road and the intersection of Townes Road and West 48<sup>th</sup> Street to be in-favor of the lights being installed. Mr. Houle stated staff recommended awarding the bid for the reconstruction.

Mr. Houle explained the neighborhood was re-surveyed about the installation of streetlights. Results of the survey were that lights would be installed on Maple Road and a light at the corner of Townes and West 48<sup>th</sup> Street. He showed a graphic depicting the type of light being planned as well as the locations of each light. Staff recommended award of the bid as presented.

Member Masica inquired whether the Maple Road residents have seen the 'acorn' type of light. Mr. Houle said residents were notified that the lights were on display in the foyer of City Hall for their perusal.

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Member Hovland made a motion approving the award of bid for Maple Road to White Oaks area street reconstruction Contract No. 03-5 (Engineering), Improvement Nos. A-194, WM-418, STS-288, SS-406 to recommended low bidder, Valley Paving, Inc., at \$454,991.75. Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold  
Motion carried.

**\*BID AWARDED FOR GOLF BALLS - BRAEMAR GOLF COURSE DRIVING RANGE** Motion made by Member Kelly and seconded by Member Masica for award of bid for golf balls for the Braemar Golf Course Driving Range to recommended low bidder, Top-Flite Golf Company at \$31,680.00 plus sales tax.

Motion carried on rollcall vote - three ayes.

**\*BID AWARDED - CITY HALL/POLICE DEPARTMENT - VOICE MAIL SYSTEM UPGRADE** Motion made by Member Kelly and seconded by Member Masica for award of bid for voice mail system upgrade for City Hall/Police Department to sole bidder, Matrix Communications at \$22,800.00.

Motion carried on rollcall vote - three ayes.

**AWARD OF BID - PROPERTY INSURANCE RENEWAL (2003-2004)** Assistant to the City Manager Smith explained two quotes were received for the property insurance renewal for policy year 2003-2004. She stated staff recommended Traveler's Insurance to insure the City's property valued at \$76,571,404.00. Ms. Smith noted the Traveler's quote was higher than last policy year due to the increase in value of the City's property. Ms. Smith introduced Jack Carroll from Aon Insurance who would answer any concerns.

Member Hovland asked if coverage was the same. Mr. Carroll said coverage was comparable and both domestic and foreign terrorist insurance had been included as part of the renewal this year. Ms. Masica inquired if the new City Hall was included in the premium and for an explanation of what terrorism insurance covered. Mr. Carroll said City Hall would be included upon its completion for additional premium. He explained that terrorism coverage historically had been included in package policies, but soon after September 11<sup>th</sup> insurance companies began charging premiums for foreign terrorism insurance. However, this year's property policy included terrorism coverage, which would include damage done by terrorists both domestic and foreign. Mr. Carroll said he did not have the exact nature of the coverage.

**Member Hovland made a motion for award of bid for the property insurance renewal for 2003-2004 to the recommended low bidder, Traveler's Insurance Company at \$91,975.00.** Member Masica seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold  
Motion carried.

**AWARD OF BID - WORKERS' COMPENSATION INSURANCE RENEWAL (2003-2004)** Ms. Smith said one quote had been received for Workers' Compensation Insurance for the policy year 2003 - 2004, because there was a very limited market. She stated the City's losses in the past policy year had been minimal, but still the premium increased by 13% because of a change in the rate structure. Ms. Smith introduced Bill Homeyer, of Harris Homeyer Insurance Agency, who would be available to answer questions.

Member Hovland inquired whether coverage would run from the first dollar and whether some cities self-insure. Ms. Smith affirmed the coverage would cover from the initial loss. She said for the City to comply with State law in self insuring, a very large pool of funds would need to be held.

Member Masica asked if neighboring cities ever pool resources for insurance purposes. Mr. Homeyer explained that the League of Minnesota Cities was a pool of Minnesota cities. Ms. Smith said historically general insurance companies are not interested in insuring public workers compensation because public safety workers have more heart/lung related issues that were presumed to be work related.

**Member Kelly made a motion approving the Workers' Compensation Insurance renewal for 2003-2004, to recommended sole bidder, League of Minnesota Cities Insurance Trust (LMCIT) at \$313,769.00. Member Masica seconded the motion.**

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**AWARD OF BID - GENERAL LIABILITY INSURANCE RENEWAL (2003-2004)** Ms. Smith said the General Liability Insurance renewal for 2003-2004 covers Public Officials Liability, Inland Marine, Law Enforcement Liability, Auto Liability, Employment Practices Liability and Equipment Insurance. Quotes were solicited and two were received. St. Paul Companies submitted the lower quote with a 4% increase in premium.

Member Masica inquired whether the General Liability policy was for claims made or claims incurred. Mr. Homeyer commented that the recommended quote from St. Paul Companies was for each occurrence.

Mr. Hughes asked if Mr. Homeyer sees a trend in the insurance industry. Mr. Homeyer responded that the majority of claims by the City have been sewer related.

**Member Kelly made a motion for award of bid for 2003-2004 renewal of the City's General Liability Insurance coverage for various policies to recommended low bidder, St. Paul Companies at \$435,854.00. Member Masica seconded the motion.**

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*BID AWARDED - ROBOTIC TOTAL STATION UNIT FOR SURVEYING PURPOSES (ENGINEERING)** Motion made by Member Kelly and seconded by Member Masica for award of bid for Engineering robotic total station unit for surveying purposes to recommended low bidder, Fieldworks, Minnesota, at \$29,995.00.

Motion carried on rollcall vote - three ayes.

**\*BID AWARDED - EMERGENCY REPAIR - WELL NO. 6 (5849 RUTH STREET)** Motion made by Member Kelly and seconded by Member Masica for award of bid for the emergency repair of Well No. 6, (5849 Ruth Street), to sole bidder, Bergerson - Caswell, Inc., at \$20,782.50.

Motion carried on rollcall vote - three ayes.

**\*TRAFFIC SAFETY STAFF REVIEW OF JUNE 9, 2003, APPROVED** Motion made by Member Kelly and seconded by Member Masica approving the Traffic Safety Staff Review of June 9, 2003, Section A:

1. Install "NO PARKING ANYTIME" zone on the west side of the 5000 block of Lincoln Drive along the property line of 5050 Lincoln Drive; and
2. Install a "NO PARKING ANYTIME" zone for the north side of Morningside Road spanning 75 feet from the corner of France Avenue west to the driveway of the property located at 4352 France Avenue; and

Section B and Section C.

Motion carried on rollcall vote – three ayes.

**\*RESOLUTION 2003-42 - CALLING FOR PUBLIC HEARING FOR CONSIDERATION OF VACATING DRAINAGE AND UTILITY EASEMENT - MARK DALQUIST ADDITION (JULY 15, 2003)** Member Kelly introduced the following resolution seconded by Member Masica and moved its approval:

**CALLING FOR PUBLIC HEARING  
OF VACATION OF DRAINAGE AND UTILITY EASEMENT  
MARK DALQUIST ADDITION  
(Official Publication)  
CITY OF EDINA  
4801 WEST 50<sup>TH</sup> STREET  
EDINA, MINNESOTA 55424  
NOTICE OF PUBLIC HEARING ON  
VACATION AND REDEDICATION OF  
UTILITY AND DRAINAGE EASEMENTS  
IN THE CITY OF EDINA  
HENNEPIN COUNTY MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Minnesota will meet on July 15, 2003, at 7:00 P.M. in the Council Chambers at 4801 West 50th Street for public utility and drainage easements to be vacated and rededicated:

**LEGAL DESCRIPTION OF DRAINAGE AND UTILITY EASEMENTS TO BE VACATED:**

That part of the drainage and utility easement lying on each side of the dividing line between Lots 2 and 3, Block 1, MARK DALQUIST ADDITION, which lies easterly of the East line of the West 7.50 feet of said Lots 2 and 3, and which lies westerly of a line drawn parallel with and 10.00 feet westerly of the westerly right of way line of Harold Woods Lane, as said Lane is dedicated to the public in said plat.

**LEGAL DESCRIPTION OF DRAINAGE AND UTILITY EASEMENT TO BE GRANTED:**

That part of Lots 2 and 3, Block 1, MARK DALQUIST ADDITION, which lies easterly of the East line of the West 7.50 feet of said Lots 2 and 3, westerly of a line drawn parallel with and 10.00 feet westerly of the westerly right of way line of Harold Woods Lane, as said Lane is dedicated to the public in said MARK DALQUIST ADDITION, and which lies within 10.00 feet on each side of the following described line: Commencing at the most southerly corner of said Lot 3; thence on an assumed bearing of North 0 degrees 28 minutes 37 seconds West along the West line of said Lot 3 a distance of 49.65 feet to the point of beginning of the line being described; thence North 89 degrees 31 minutes 08 seconds East to its intersection with said westerly right of way line, and said line there ending.

All persons who desire to be heard with respect to the question of whether or not the above proposed street right of way and utility and drainage vacation is in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed street vacation affects existing easements within the area of the proposed vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto, for the purpose of specifying, in any such vacation resolution, the extent to which any or all of such easement, and such authority to maintain, and to enter upon the area of the proposed vacation, shall continue.

BY ORDER OF THE EDINA CITY COUNCIL

Debra A. Mangen, City Clerk

Motion carried on rollcall vote – three ayes.

**REAPPOINTMENTS MADE TO COMMUNITY EDUCATION SERVICES BOARD** Mayor Maetzold stated the terms for the Community Education Services Board would expire on June 30, 2003. He reported that Linda Presthus, the Park Board representative and Bethany Brand, the citizen at large representative have agreed to reappointment. However, Member Housh would rather another member take over the Council spot on the board. Member Masica explained she would consider the position, but would like to wait for about a week before making a final decision.

Following a brief Council discussion, **Mayor Maetzold made a motion to appoint Linda Presthus and Bethany Brand to the Community Education Services Board for a one-year term until June 30, 2004, and to table the Council member appointment until July 1, 2003.** Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**LEGISLATION EXTENDING LIQUOR HOURS OF SALE DISCUSSION HELD** Mr. Hughes explained during the 2003 Legislative session, the state amended Minnesota Statutes allowing on-sale liquor establishments to remain open until 2:00 A.M. subject to a special permit issued by the state. He stated the MN Department of Public Safety's Alcohol and Gambling Enforcement Division would be the issuing authority. They intend to direct revenue from the special permits to the State Highway Patrol's enforcement efforts. The City's responsibility will be to provide certification stating that the applicant holds a license in the City and the City's Ordinance allows establishments to remain open until 2:00 A.M.

Mr. Hughes noted Edina Code Section 900.10, Subd. 7 states that "the hours and days of sale shall be as set forth in M.S. 304A. 504. Except..." Currently, Edina makes exception to the State's 1:00 A.M. closing on Monday morning and sets Sundays at midnight as closing time for all on-sale establishments. Mr. Hughes said that, as written Edina's Code will automatically follow the 2:00 A.M. closing Monday through Saturday unless the Council decides to adopt an amendment continuing the 1:00 A.M. closing time. Mr. Hughes said if so directed by Council staff would prepare an ordinance amendment retaining the 1:00 A.M. closing time.

Mr. Hughes noted Edina's Code allows only restaurants to sell liquor; therefore most establishments in the City close long before the statutory closing time. He added staff did not believe that many, if any, would apply to the State for the "special permit" required allowing them to remain open until 2:00 A.M.

Mayor Maetzold suggested that liquor establishments be informed of the City's intentions to maintain the 1:00 A.M. closing time. Mr. Hughes suggested Edina liquor establishments could be sent advisory notices and informed of a hearing on the proposed amendment at the July 1, 2003, regular Council meeting.

**Member Hovland made a motion directing staff to prepare an ordinance amendment calling for the 1:00 A.M. closing time for liquor establishments and that licensees be notified of the hearing to be held July 1, 2003.** Member Masica seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**VISION 20/20 UPDATE PRESENTED** Mr. Hughes explained a draft of Vision 20/20 was included in the Council packet as a follow-up to the Strategic Planning Retreat held recently. He requested

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perusal of the document and said the update would be on the July 1, 2003, regular Council meeting agenda.

No formal Council action was taken.

**CONFIRMATION OF CLAIMS PAID** Member Masica asked that the Confirmation of Claims Paid be removed from the Consent Agenda for an explanation of the line item, 'Edina Foundation – Credit Card Charges' in the amount of \$300.00. Mr. Hughes explained that the Foundation does not have the ability to accept credit cards. During a recent fund-raiser the City ran some donations to the Foundation through their credit card account because the Foundation was not set up to process credit cards. The payment was to remit the funds donated via credit card to the Foundation. **Member Masica made a motion and Member Hovland seconded the motion approving payment of the following claims as shown in detail on the Check Register dated June 5, 2003, and consisting of 35 pages: General Fund \$116,900.83; CDBG Fund \$1,12 0.00; Communications Fund \$160.00; Working Capital Fund \$34,791.15; Construction Fund \$18,031.50; Art Center Fund \$3,227.14; Aquatic Center Fund \$19,468.57; Golf Course Fund \$41,634.05; Ice Arena Fund \$1,541.76; Edinborough/Centennial Lakes Fund \$9,332.73; Liquor Fund \$137,478.15; Utility Fund \$35,183.32; Storm Sewer Fund \$8,791.35; TOTAL \$427,660.55; and for approval of payment of claims dated June 11, 2003, and consisting of 35 pages: General Fund \$163,992.84; CDBG \$6,922.67; communications Fund \$1,112.34; Working Capital Fund \$31,887.75; Art Center Fund \$8,852.86; Golf Dome Fund \$3,076.05; Aquatic Center Fund \$42,478.80; Golf Course Fund \$21,959.23; Ice Arena Fund \$12,978.35; Edinborough/Centennial Lakes Fund \$13,553.06; Liquor Fund \$129,378.12; Utility Fund \$51,074.14; Storm Sewer Fund \$2,450.00; TOTAL \$489,716.21.**

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

**\*PETITION RECEIVED FOR STREET, STORM SEWER AND SIDEWALK IN DALE AND SUNNYSIDE NEIGHBORHOOD** Motion made by Member Kelly and seconded by Member Masica accepting the petition for street surfacing, storm sewer, street lighting, traffic roundabout at Dale and East Sunnyslope and Dale and Ridge Place, and sidewalk in the Sunnyside neighborhood and submitting it to the Engineering Department for processing as to feasibility.

Motion carried on rollcall vote – three ayes.

**MEETING CLOSED FOR DISCUSSION OF PENDING LITIGATION – GRANDVIEW PARK CEMETERY** Member Hovland made a motion to close the Council meeting to allow discussion with Attorney Gilligan about pending litigation of Grandview Park Cemetery. Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

The Council discussed issues relating to the litigation with the City Attorney.

**Member Hovland made a motion reopening the Council Meeting of the Edina City Council at 8:25 P.M.** Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 8:25 P.M.

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City Clerk